

STATE OF NEW YORK

THE STATE TAX COMMISSION

Comp. Tax Return

In the Matter of the Petition :
of :
SAVIN BUSINESS MACHINES CORPORATION :
for redetermination of a deficiency or :
for refund of franchise tax under Article :
9-A of the Tax Law for the taxable year :
ended April 30, 1966. :

Savin Business Machines Corporation, having filed a petition for redetermination of a deficiency or for refund of franchise tax under Article 9-A of the Tax Law for the taxable year ended April 30, 1966, and a hearing having been held in connection therewith at the office of the State Tax Commission in New York City on February 6, 1968 before Donald H. Gilhooly, Hearing Officer of the Department of Taxation and Finance, at which hearing, William Miller, Chief Accountant of the taxpayer, appeared personally and testified, and the record having been duly examined and considered,

The State Tax Commission hereby finds:

- (1) That the taxpayer was incorporated under the laws of New York State on April 28, 1959;
- (2) That a statement of audit adjustment was mailed May 15, 1967 showing an added tax of \$2,572, and a notice of deficiency was issued therefor on October 2, 1967, computed as follows:

Taxable year ended April 30, 1966

New York entire net income before allowance of a net operating loss deduction	\$169,149.00
Less New York net operating loss deduction	28,419.00
New York entire net income before allocation	140,730.00
Business allocation	47.2066%
Entire net income allocated to New York	66,433.85
Tax at 5 $\frac{1}{2}$ %	3,654.00
Tax per report	1,082.00
Deficiency	\$ 2,572.00

(3) That the taxpayer's franchise tax report for the taxable year ended April 30, 1966 showed entire net income of zero after the deduction of \$169,149 of a New York net operating loss of \$173,727, sustained during the taxable year ended April 30, 1962;

(4) That the net operating loss deduction rider, which accompanied the New York report, listed the Federal and New York net operating losses carried forward to the taxable year ended April 30, 1966, as follows:

<u>Taxable Year</u>	<u>Federal</u>	<u>New York</u>
5/1/60 to 4/30/61	(\$ 88,275)	- 0 -
5/1/61 " 4/30/62	(174,727)	(\$169,149)
5/1/62 " 4/30/63	(246,168)	- 0 -
5/1/63 " 4/30/64	(206,766)	- 0 -
5/1/64 " 4/30/65	(18,721)	- 0 -
Totals	(\$734,657)	(\$169,149)

(5) That the Federal taxable income for the taxable year ended April 30, 1966, before application of the Federal net operating loss deduction, was \$116,694;

(6) That Section 172 of the Internal Revenue Code provides for a net operating loss deduction;

(7) That Section 208.9(f) of Article 9-A reads, in part, as follows:

"A net operating loss deduction shall be allowed which shall be presumably the same as the net operating loss deduction allowed under section one hundred seventy-two of the internal revenue code of nineteen hundred fifty-four, * * * except that (1) any net operating loss included in determining such deduction shall be adjusted to reflect the inclusions and exclusions from entire net income required by paragraphs (a), (b) and (g) hereof, (2) such deduction shall not include any net operating loss sustained during any taxable year beginning prior to January first, nineteen hundred sixty-one, * * * and (3) such deduction shall not exceed the deduction for the taxable year allowable under section one hundred seventy-two of the internal revenue code of nineteen hundred fifty-four, * * *."

Based upon the foregoing findings and all of the evidence presented, The State Tax Commission hereby

DECIDES:

(A) That only \$116,694 of Federal net operating losses was necessary to reduce Federal taxable income for the fiscal year ended April 30, 1966 to zero;

(B) That under clauses (2) and (3) of section 208.9(f) of Article 9-A of the Tax Law, only \$28,419 is allowable as a net operating loss deduction since the \$88,275 net operating loss sustained during the fiscal year ended April 30, 1961 must be excluded;

(C) That, accordingly, the notice of deficiency for the taxable year ended April 30, 1966 is correct;

(D) That the deficiency does not include any taxes or other charges which could not have been lawfully demanded, and that the taxpayer's petition for redetermination of deficiency or for refund is hereby denied.

Dated: Albany, New York

this 24th day of March 1970.

THE STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER